

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Statutory Review of the System
for Regulating Rates and Classes
for Market Dominant Products

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Docket No. RM 2017-3

Comments of eBay, Inc.

(February 3, 2020)

eBay Inc. (“eBay”) hereby respectfully submits these comments in response to Commission Order No. 5337 providing a Revised Notice of Proposed Rulemaking (“RNPRM”) in Docket No. 2017-3.

Founded in 1995 in San Jose, California, eBay has been a global commerce leader for 25 years, and supports one of the world's largest and most vibrant marketplaces for discovering great value and unique selection. Our marketplace also enables hundreds of thousands of US entrepreneurs, small businesses, as well as mid-size and large businesses, to reach 183 million buyers around the world. eBay is facilitating a new kind of commerce that is driven by people and truly beneficial for Main Street businesses across America.

eBay and our community of sellers rely upon the postal system, and support its strong, dependable, ubiquitous and affordable services. eBay has long considered itself a partner to the USPS, and the small businesses and entrepreneurs who utilize the eBay marketplace to connect to buyers around the globe rely on USPS services to

stand up, manage and operate their businesses, succeed in the intensely competitive ecommerce world, and grow their businesses and the jobs those businesses provide.

The RNPRM Does Not Alleviate Concerns About The “Spillover” Impact of the Initial Proposal onto Competitive Products

In Order No. 4258, the Commission proposed to revise the Market Dominant rate setting system to permit increases of up to CPI-U +3, and CPI-U +5 for “under water” classes. In comments filed in response to that proposal, eBay expressed strong concern to the Commission¹ that the proposed increases would drive mail out of the system faster than it is already departing.² As a result, a significantly greater proportion of the funds necessary to operate the postal system would fall to the Competitive classes. Given the necessity to maintain affordability of the postal system for eBay’s very small business sellers, any rate “spillover” effect to compensate for lost revenues in the Market Dominant classes would be enormously counterproductive. We warned at the time:

“[A]s they stand, Competitive prices are near the limit of affordability for some, and past that limit for some others. Thus, any collateral impact from a decline in Market Dominant revenues, especially stimulated by a result from this rulemaking, could have the unintended consequences of reducing the competitiveness of our sellers, and forcing some out of the Postal Service or out of business.”³

That situation has not changed. Moreover, the resulting price increases on Competitive products from this proposal would likely put upward pressure on comparable products

¹ eBay, Inc. Comments in Docket RM 2017-3, *Statutory Review of the System for Regulating Market Dominant Rates and Classes*, *passim*. (March 20, 2017.) (“eBay Comments”)

² The Postal Service just-released 5-Year Strategic Plan forecasts an 18% loss of volume over the next five years. The US Postal Service Five-Year Strategic Plan FY 2020-2024 (“Strategic Plan”), at 15. We believe that is likely conservative.

³ eBay Comments at 4.

offered by private sector competitors, which would further compound the negative impacts felt by small businesses and entrepreneurs.

The RNPRM has not alleviated the threat from our perspective; if anything, it has grown with this proposal.

The Formulation in The RNPRM Is Flawed and Should Be Wholly Reconsidered

The Commission proposes to confer additional authority to raise rates upon the Postal Service beyond the CPI-U cap⁴ in three ways: 1) based on “density” as calculated by a formula supplied by the Commission; 2) an amount to be dedicated to payments for prefunding of postal retiree health care; and 3) based on a combination of improvements in productivity measured by Postal Service Total Factor Productivity (“TFP”) and maintenance of “high quality” service standards.⁵

While the Commission appears to have taken this route in order to provide more evidentiary backing to increases beyond CPI-U and tie the proposals more specifically to particular bases that may be affected by particular circumstances than under the previous proposal, the effect appears to be counterproductive.

First, the new density formula is one to produce consistent increases, and potentially well beyond the 1% per annum envisioned. With volume in constant decline, and accelerated by price increases, while the number of delivery points inexorably increases at a pace of roughly one million per year, it is hard to envision when there will not be an increase, and that any individual such increase can easily exceed 1%. This formula is one that could precipitate the proverbial postal “death spiral”: lower volumes

⁴ eBay does not argue here, but declines to concede, that the Commission has the authority to exceed the price cap for Market Dominant products as mandated in 39 USC §3622(d)(1)(A).

⁵ Order No.5337, Docket No. RM 2017-3, *Statutory Review of the System for Regulating Rates and Classes of Market Dominant Products*, p. 10, *et seq.* (December 5, 2019)

causing higher rates, causing another round of lower volumes, in turn causing still higher rates and so forth.

Second, the increase designated to pay for retiree health prefunding and normal costs is puzzling. USPS has defaulted, without consequence to the Service or retirees, on those payments every year since 2012. There is no expectation, including by the Congressional Budget Office,⁶ that they will be paid. Adding and earmarking an amount under these circumstances specifically for these payments damages mail users and volumes for no reason.

Third, in providing an additional 1% for improvements in TFP and maintenance of high-quality service standards, the Commission empowers USPS to collect money for virtually nothing. While the accuracy of TFP is debatable, and can vary significantly, the value of high-quality service standards standing in isolation is not. eBay users rely upon high performance standards, but if a standard is set while the performance to achieve that standard is ignored, there is no value to the standard. The provision in the law for establishing service standards, 39 USC §3691, illustrates that Congress clearly was not prepared to distinguish standards from performance. A standard cannot be “high quality” if it routinely is not met.⁷ Yet that is what the Commission’s proposal would set up to be rewarded.

⁶ Congressional Budget Office, *Cost Estimate, HR 2382* (January 31, 2020).

⁷ At a Mailers Technical Advisory Committee meeting on January 28, 2020, the Postal Service made a presentation about service where, among other things, it was advised that USPS had its best composite First Class Mail service – approximately 90% -- in the previous quarter. So, its best, which we applaud, still fell well short of established service standards for First Class. And those service standards themselves have been reduced from the traditional overnight and second day delivery standards. In our view, the Postal Service should not be rewarded for this performance merely because it did not further downgrade its service standards.

Finally, we must respectfully point out that the supplemental authorities for raising rates that the Commission would confer on USPS in this proposal work in only one direction. While a decrease in density, payments to amortize prefunding, and improvement/maintenance of efficiency and/or service standards, all would generate additional pricing for USPS, there is no reduction in that pricing should density increase, payments for prefunding end, or decreases occur in efficiency or service standards. Instead, all previous additional pricing from meeting any or all of the bases for these authorities would continue in the rate base, and USPS would only be deprived of *additional* authority for those years when the conditions are not met.

Once baked into the rate base, these increases are compounded forevermore. Therefore, should the conditions of one or more of the additional authorities not be met, some form of reduction in authority to prevent compounding of previously earned authority would be both fair and appropriate. The absence of a self-correcting mechanism for this eventuality is yet another area of concern in this proposal.

In short, eBay believes the revised proposal should be reconsidered in light of the above flaws.

Even Were the Commission to Disagree That Any or All of the Above Premiums are Flawed, the Increases Proposed are Too Large and Will Hurt The Postal Service's Market Dominant Customers

The annual increases of CPI-U+3 over the proposed five-year span is not sustainable. Compounded, that would amount to approximately 28%⁸, assuming inflation continues at about 2% per annum, over five years on mail that is already

⁸ eBay will not discuss herein the additional rate authority and compounding for "under water" classes. Suffice to say those classes believe that these rate increases would pose an existential challenge to their businesses, their industries and the jobs they support. We see no reason to doubt their calculus.

steadily declining. In fact, USPS projects a decline of an additional 18%,⁹ presumably calculated in the absence of these proposed increases. Under the Commission's proposal, one would expect an accelerated loss of Market Dominant volume and revenues. This would spell disaster for participants in the Competitive classes, and especially the very small businesses represented by a large percentage of eBay's sellers. Absent other changes, much of the burden for sustaining USPS's self-sustaining business model directed by statute would have to fall to business remaining in the system. And that would mean rates that would compensate for those losses in supporting USPS infrastructure and personnel would unavoidably be imposed on Competitive shippers, including small businesses and entrepreneurs in the eBay community.

Other steps must be undertaken instead of simply relying upon price. eBay encourages a holistic approach to fixing what ails the Postal Service, and commends Congress and the Administration for their efforts to date to shine a light on the problems and begin to discern solutions. We encourage the Commission to recognize the necessity of a broader approach, as well, and reconsider this proposal in that light.

Effectively shifting responsibility – the “spillover” effect -- for a much greater share of revenues to shippers by pricing mailers out of the system will harm the very package business that is currently sustaining USPS revenues. As thousands of eBay users have made clear,¹⁰ small businesses and entrepreneurs rely upon affordable

⁹ Strategic Plan at 15.

¹⁰ eBay, Inc., *Reply Comments*, Docket RM 2017-1, Institutional Cost Contribution Requirement for Competitive Products, Appendix A (March 9, 2017).

USPS package shipping options. Markedly higher Competitive rates on top of already aggressively raised prices would have a detrimental impact on this community.¹¹

Conclusion

eBay firmly believes that providing USPS the authority to raise rates as set forth in the RNPRM will end up being profoundly counterproductive. Solutions beyond price must be found for the Postal Service's challenging situation.

Accordingly, eBay respectfully submits that the proposal in Order No. 5337 should be reconsidered with a view toward withdrawing or dramatically reducing the new rate authority.

Respectfully submitted,

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eBay Inc.

¹¹ For example, the popular USPS Parcel Select product prices have increased more than 100% between 2007 and 2019. Coalition for a 21st Century Postal Service, *A Postal Primer*, at 12 (April 16, 2019).